

### **REMARKS**

The Office Action dated 16 November 2008 has been fully considered by Applicant.

Enclosed is a Petition For Three-Month Extension of Time and a check in the amount of \$1050. Also, enclosed is an RCE application.

Claims 1 and 12 are currently amended. Claims 2-4, and 9-11 have been previously presented. Claims 5- 8 have been canceled. Claim 13 is new.

Claims 1-4, 10 and 11 have been rejected under 35 USC 103(a) as being unpatentable over United States Patent No. 6,868,551 to Lawler et al in view of United States Patent No. 6,412,112 to Barrett et al.

Applicant believes currently amended independent claim 1 is patentable over the cited references and respectfully requests reconsideration of the rejection.

Claim 1 has been amended to provide for, as a part thereof, a plurality of portions of video and/or audio data stored on a hard disk. The stored portions of data have identification data such that upon a user selection to receive information on a program using the electronic program guide, the broadcast data receiver identifies the identification data for the user selected program, searches the hard disk memory for stored video and/or audio data with matching identification data, and if found, processes the same to generate video and/or audio therefrom for display. The video and/or audio data to be stored is transmitted to the broadcast data receiver in a single transport stream and downloaded separately from the auxiliary data at designated off-peak times according to when the broadcast data receiver is not in use by a user and when the broadcast data receiver is less likely to be in use for other functions.

Clearly, Applicant's provision for a plurality of portions of video and/or audio data, such as video clip data, transmitted to the broadcast data receiver in a single stream and downloaded separately from the auxiliary data at designated off-peak times is not taught or suggested in the combination of the cited references. Therefore, Applicant respectfully requests reconsideration of the rejection.

The '112 Barrett patent does not teach or suggest that the video data to be stored is received separately from the auxiliary data used to generate the electronic program guide. The Lawler patent does not teach or suggest the storage of video clip data in the device but only of the auxiliary data required to generate the electronic program guide.

Therefore, it would be difficult to understand why a person skilled in the art would be motivated to combine these two references to arrive at Applicant's invention of providing a plurality of portions of video and/or audio data to be stored to be transmitted to the broadcast data receiver in a single transport stream and downloaded separately from the auxiliary data at designated off-peak times according to when the broadcast data receiver is not in use by a user and when the broadcast data receiver is less likely to be in use for other functions.

The Applicant respectfully disagrees with the Examiner's rejection of the aforestated claims under 35 USC 103(a). Absent some suggestion or motivation supporting the combination of references, the references may not properly be combined. "The mere fact that references *can* be combined or modified does not render the resulting combination obvious unless the prior art suggests the desirability of the combination". M.P.E.P. Section 2143.01 (Emphasis in original).

In addition to the above, it is easy to see that in Applicant's invention, the time and frequency of transmission may be selected because the plurality of portions of video and/or audio data, such as

video clip data, to be stored is transmitted to the broadcast data receiver in a single transport stream and downloaded separately from the auxiliary data at designated off-peak times. For example, data could be downloaded for six days worth of electronic program guide display, but video clip data may be downloaded separately for only 24 hours at a time.

However, in the '112 Barrett patent the auxiliary data and the video clip data are transmitted together. The problem with this approach is that the video clip is much larger than the electronic program guide auxiliary data and, therefore, it takes much longer to download. More importantly, the video clip data will have to be downloaded for many days in advance when transmitted alongside the electronic program guide auxiliary data, since the auxiliary data is typically downloaded for many days in advance.

Therefore, it would be difficult for a person skilled in the art to be motivated to combine the teaching of Lawler, which does not include storing video clip data, with Barrett, which transmits both the auxiliary data and the video/audio data together, to arrive at Applicant's invention as set forth in currently amended claim 1. Therefore, Applicant sincerely believes the currently independent claim 1 is not taught or suggested in the cited references and respectfully requests reconsideration of the rejection.

In addition, Applicant's single transport stream of video clip data provides for the ability for a greater amount of video clip data to be stored in the hard disk of the broadcast data receiver than that in the prior art system.

A broadcast data receiver created by a combination of the teachings of Lawler and Barrett would receive electronic program guide and video clip data together and would allow the storage of video clip data in local memory until required. However, the electronic program guide data would

be limited by the storage availability of the video clips. The storage space would only be sufficient for a few day's worth of program guide and video clips, which would be frustrating to the user if he/she wanted to plan beyond the storage limitation created by the inefficient Lawler/Barrett type systems.

Furthermore, it can be appreciated that Applicant's single transport stream of video clip data can be controlled independently of the data for the electronic program guide or any other transmitted data.

Furthermore, it can be appreciated that Applicant's use of a single stream of video clip data may allow for the available video clips to be changed and/or updated and held for long periods of time in the future, if required.

In addition, Applicant's single transport stream of video clip data also allows a wider range of transmission and storage options to be available, which provides for a more flexible system as a whole. Instead, the '112 Barrett patent makes use of a higher bandwidth video channel so that the transfer of auxiliary data is faster and more efficient than internet-based protocols. Barrett teaches that auxiliary data (such as that for generating an electronic program guide, Col. 4, lines 36-38) can be transmitted to a set top box via a video channel (Col. 2, lines 27-30) by encoding into MPEG directly without the lossy step (Col. 5, lines 39-43), instead of a lower-bandwidth internet channel during the night or other period of inactivity (Col. 9, lines 48-49).

Clearly, Applicant's feature of video and/or audio data which is to be stored is transmitted to the broadcast data receiver in a single transport stream and downloaded separately from the auxiliary data at designated off-peak times according to when the broadcast data receiver is not in use by a user and the broadcast data receive is less likely to be in user for other functions is not taught or suggested in the cited references. The MPEP 2143.03 states the following:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art.

Another feature of Applicant's claim 1 that is not taught or suggested in the cited references is the stored portions of data which have been transmitted to the broadcast data receiver in a single transport stream and downloaded separately from the auxiliary data have identification data such that upon user selection to receive information on a program using the electronic program guide, the broadcast data receiver identifies the identification data for the selected program and searches the hard disk for stored video and/or audio data with matching identification data and if found, processes the same to generate video and/or audio therefrom for display.

There is no disclosure in the Barrett patent of the video clips being provided with identification data to allow the same to be found by an electronic program guide search, as the auxiliary data and the video data are transmitted together. There would be no need to provide searching or identification data in the Barrett patent since the video clips are integral with the electronic program guide. As mentioned above, the Lawler patent does not teach or disclose the storage of video clip data in the device, only the auxiliary data required to generate the electronic program. Therefore, there would be no motivation for a person skilled in the art to combine the teachings of Barrett with Lawler to provide for the features found in Applicant's currently amended claim 1.

Furthermore, Applicant's provision of allocation of identification data to relevant programs on the electronic program guide and the video clip data which allows an active search for a video clip in storage having identification data that matches that of the selected program from the electronic program guide help solve the storage space problem created in both the Lawler and the Barrett patents.

Therefore, Applicant believes that currently amended claim 1 is not taught or suggested in the cited references and respectfully requests reconsideration of the rejection.

Claims 2-4, 10 and 11 depend upon currently amended claim 1 and therefore are believed to be novel over the cited references for the reasons stated above.

Claim 12 has been rejected under 35 USC 103(a) as being unpatentable over United States Patent No. 6,868,551 to Lawler et al in view of United States Patent No. 6,425,129 to Sciammarella in view of United States Patent No. 6,412,112 to Barrett.

Applicant believes that currently amended independent claim 12 is patentable over the cited references and therefore respectfully requests reconsideration of the rejection.

Claim 12 has been currently amended to include as a part thereof a storage means being provided as a part of the broadcast data receiver in which a sufficient portion of the video and/or audio data for a particular clip or trailer from each program in the following time period in the electronic program guide is transmitted to the broadcast data receiver in a single transport stream and downloaded separately from the auxiliary data at a designated off-peak time, when the broadcast data receiver is not in use by a user. The downloaded data is then held in the storage means for subsequent retrieval and display by a user and the broadcast data receiver is less likely to be in use for other functions and is held in the storage means for subsequent retrieval and display. Clearly, these features are not taught or suggested in the cited references.

Both of the cited references are prescriptive in that the video clip data is available only as part of the electronic program guide data transmission and the availability or not of the video clip data is determined at the time of the selected program from the electronic program guide.

In contrast, Applicant's currently amended claim 12 provides for an adaptive system for generating the video clip or trailer. For instance, if a user selects a particular program and indicates that he/she wishes to view the video clip, Applicant's system will select the identification code for that program and search for the same in the hard disk memory. The hard disk memory, in accordance with Applicant's invention, will have received a single transport stream of video and audio data for a series of video clips and stored the same therein. If the identification code is present in the stored data, the appropriate data is selected and processed to allow the video clip to be displayed. If it is not present, no video clip can be displayed. This adaptive system can only be achieved in the current invention as a result of the transmission of the data for the video clip or trailer as a single transport stream and the storage of the same in the hard disk of the receiver. Thus, the hard disk into which the video clip data is stored is capable of receiving the data and storing the same with a significant storage capacity being available by allowing the video clip data to be transmitted as a single stream of data so the time and frequency of transmission can be selected. Furthermore, the single transport stream of video clip data can be controlled independently of the data for the electronic program guide or any other data which is being transmitted. This allows the video clips which are available to be viewed to be changed and/or updated and to be held for a greater period of time in the future if required. It also allows a wider range of transmission and storage options to be available and the system as a whole to be more flexible and includes the ability for a greater amount of video clip data to be stored, in the hard disk memory of the broadcast data receiver, than in the prior art system.

Even if the video could be sent separately according to the prior art, the icons of the resultant system would be displayed on the electronic program guide for those programs predesignated to have a video clip available but if the video clip data was separately transmitted, it may not yet have been

received so that the video clip could not be generated which would lead to a malfunction of the system. Applicant sincerely believes that currently amended claim 12 solves this problem by allowing the electronic program guide to be adaptive, having downloaded the video clip data separately from the electronic program data, such that an active search can be performed to avoid system malfunctions such as that described above.

Therefore, Applicant sincerely believes that currently amended claim 12 is not taught or suggested in the cited references and therefore respectfully requests reconsideration of the rejection.

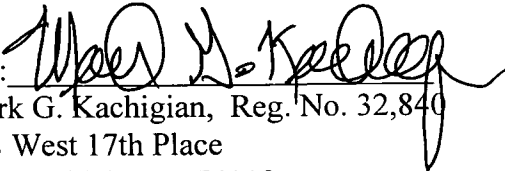
New claim 13 is based on previous claim 1 and attempts to clarify that the electronic program guide data for a first period is downloaded separately from the video clip data, the video clip data relating to a program in a second period falling within the first period.

Applicant is grateful for the thorough examination of the application by Examiner Shepard and believes the application is now in condition for allowance and such action is earnestly solicited. If any further issues remain, a telephone conference with the Examiner is requested. If any further fees are associated with this action, please charge Deposit Account No. 08-1500.

Respectfully Submitted

HEAD, JOHNSON & KACHIGIAN

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